

## REMARKS

This paper is submitted in response to the Final Office Action mailed on January 6, 2006. Claims 1 and 13 have been amended. Claims 1-21 remain in the application. In view of the foregoing amendment, as well as the following remarks, Applicants respectfully submit that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

Claims 1-20 were rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Office Action asserts that in claims 1 and 13, it is not clear what the scope of "register" encompasses as the specification does not adequately define this term and only refers to registration during scoring of the film, not wrapping. The term register is used to connote a spatial relationship between two elements. In particular, as used in the specification and claims of the application, the term register means that a first element (i.e., the film) immediately overlies the second element (i.e., the carton substrate) so that the two elements are juxtaposed to each other, i.e., the two elements confront each other. The use of the term register to describe the relationship between the over wrap film and the carton means that for substantially any portion of the film, there is a corresponding portion of the carton that immediately underlies the film. Such a meaning for register is clearly supported by at least Fig. 3 of the present application which shows an over wrap applied to a carton in accordance with the above description of register. One of ordinary skill in this art would readily understand the claimed invention, including the term "register" in light of the specification. Moreover, claim 13 has been amended herein to recite that the film and

carton are "in confronting relation" to claim this feature of the invention in a different manner. In view of the foregoing, Applicants submit that the term register and its scope are clearly defined and the rejection under 35 U.S.C. § 112, ¶ 2 has been overcome.

Claims 1-3, 5, 7, 8 and 21 were rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,631,083 to Rhodes et al. ("Rhodes"). Applicants respectfully disagree. Rhodes is directed to a beverage cooler box that provides for packaging individual containers, and allows ice or other cooling means to be added directly to the box to cool or chill the containers. To this end, box (10) includes an upper panel (12), front panel (14), rear panel (16), and end panels (18). A lid (22) is defined by perforations (23) in upper panel (12) and front panel (14). Box (10) also includes handle openings (26) defined by perforations (25) to create flaps (24) to facilitate transporting box (10). Box (10) is formed from a composite material having a polyethylene film (29) adhered to substrate (31) with a thin layer of polyethylene extrudate (30). The box (10) is formed from a pre-cut piece of material (Fig. 6) having various fold and/or score lines and assembled by folding the material along the fold lines to form the final shape of the box (10).

In regard to independent claim 1, Rhodes clearly does not teach or suggest the subject matter recited in that claim. In particular, Rhodes does not teach or suggest "over-wrapping the filled carton with a film..." as specifically recited in independent claim 1. (Emphasis added). As pointed out in the specification of the present application, one of the advantages of the invention is to permit the use of a generically printed or blank paperboard carton substrate for packaging a plurality of items and then over-wrapping the carton with a printed film after the paperboard carton

is erected and the items are inserted therein. This allows the film to be over-wrapped at a location separate from where the items are packaged and with a film of the customers choosing.

Rhodes does not teach or suggest "over-wrapping the filled carton with a film," as recited in claim 1. Rhodes addresses a box construction that not only serves to enclose containers (C), for transportation and the like, but also provides for cooling the containers with ice in a manner that prevents leakage. One of ordinary skill in the art reading Rhodes would not come away with the understanding that the substrate (31) is over-wrapped by the film (29) after the box (10) is erected and the containers (C) are loaded into the box (10). One of ordinary skill in the art would understand Rhodes as teaching that the composite construction of the material that forms box (10) (see Fig. 2A in Rhodes) occurs prior to erecting the box (10) and loading the box with containers (C). One of ordinary skill in the art would most likely understand that the composite material is formed prior to the forming the pre-cut blank shown in Fig. 6 of Rhodes, as is typical in the packaging art using laminates. Rhodes provides no teaching, suggestion or motivation for modifying the typical method by adhering the polyethylene film (29) to the substrate (31) after the box (10) is erected and filled with containers (C). Accordingly, Applicants submit that Rhodes does not teach or suggest the combination of elements recited in independent claim 1 and the rejection should be withdrawn.

In regard to independent claim 21, claim 21 also recites "over-wrapping the filled carton with a film." Thus, for the same reasons as provided above for claim 1, Applicants respectfully submit that Rhodes does not teach or suggest the combination of elements recited in independent claim 21 and the rejection should be withdrawn.

Claims 6, 9 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rhodes. Claims 6, 9 and 10 depend from independent claim 1, thus for the reasons provided above for claim 1, Applicants respectfully submit that Rhodes does not teach or suggest the combination of elements recited in dependent claims 6, 9, and 10 and the rejections should be withdrawn.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Rhodes in view of Littmann. Claim 4 depends from independent claim 1, thus for the reasons provided above for claim 1, Applicants respectfully submit that Rhodes does not teach or suggest the combination of elements recited in dependent claim 4 and the rejection should be withdrawn.

Claims 1, 2, 5-7 and 9-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Chapman. This rejection is essentially the same rejection in the July 28, 2005 Office Action. However, with the meaning of register more clearly understood as stated above, Applicants submit that claim 1 clearly defines over the combination of Williams and Chapman and thus maintain their previous position. Please note that claim 1 has been amended to clarify that substantially the entire film registers with the carton. Williams clearly does not teach or suggest a configuration where "substantially the entire film registers with a portion of the carton." As shown in Fig. 1 of Williams, each package (11) is open along the top of the package such that the film (13) does not register with a portion of the package (11) as recited in amended independent claim 1, but instead registers with either a void below the film or the top of a container (12). Clearly then there is a portion of the film that does not register with the carton. Accordingly, Applicants submit that Williams, either

alone or in combination with Chapman, does not teach or suggest the combination of elements recited in independent claim 1 and the rejection should be withdrawn. Moreover, as claims 2, 5-7 and 9-12 depend from independent claim 1, and further as each of these claims recites a combination of elements not taught or suggested by the prior art of record, Applicants submit that these claims are allowable as well.

Claims 3 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Killy. This rejection is essentially the same rejection in the July 28, 2005 Office Action. In any event, claims 3 and 8 depend from claim 1, and further as each of these claims recites a combination of elements not taught or suggested by the prior art of record, Applicants submit that these claims are allowable as well.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Littmann. This rejection is essentially the same rejection in the July 28, 2005 Office Action. In any event, claim 4 depends from claim 1, and further as this claim recites a combination of elements not taught or suggested by the prior art of record, Applicants submit that this claim is allowable as well.

Claims 13-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rhodes in view of Littmann. In regard to independent claim 13, the rejection of this claim is flawed in a manner similar to that in independent claim 1. In particular, claim 13 specifically recites "over-wrapping the filled carton with a film..." As stated above, and for the reasons stated above, Rhodes does not teach or suggest over-wrapping a filled carton with a film. Accordingly, Applicants submit that Rhodes does not teach or suggest the combination of elements recited in independent claim 13

and the rejection should be withdrawn. Moreover, as claims 14-18 depend from claim 13, and further as each of these claims recites a combination of elements not taught or suggested by the prior art of record, Applicants submit that these claims are allowable as well.

Claims 13-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Killy and in further view of Littmann. This rejection is essentially the same rejection in the July 28, 2005 Office Action. For the reasons stated above for claim 1, Applicants submit that Williams, either alone or in combination with Killy and Littmann, does not teach or suggest the combination of elements recited in independent claim 13 and the rejection should be withdrawn. Please note that claim 13 has also been amended to clarify that substantially the entire film registers with the carton.

In addition to the above, in our October 7, 2005 response we pointed out that Williams fails to teach or suggest a scored portion of the film becoming part of the convenience feature when accessed by a user, as recited in claim 13. In the present Final Office Action, however, the Examiner again asserts that Williams discloses "the scored portion of the film becoming part of the convenience feature by being located directly adjacent and movable with the convenience feature which allows access to the convenience feature..." Office Action, p. 9. Applicants respectfully disagree. Williams shows an access hole (14) where the scored portion of the film is completely removed to form the hole (14). With this configuration, Applicants fail to see how "the scored portion of the film becomes part of the convenience feature when access (sic) by the

user." The scored portion is no longer there and thus cannot become part of the handle. For this further reason, Applicants submit that claim 13 should be allowed.

Moreover, as claims 14-20 depend from independent claim 13, and further as each of these claims recites a combination of elements not taught or suggested by the prior art of record, Applicants submit that these claims are allowable as well.

### **CONCLUSION**

In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Applicants are of the opinion that no additional fee is due as a result of this response other than the fee for the Request for Continued Examination. If any additional charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

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